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PATENT APPLICATION

ATTORNEY DOCKET NO. 10010027-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Gennetten, et al.

Confirmation No.: 9991

Application No.: 09/964,132

Examiner: Etienne Leroux

Filing Date: 9/25/01

Group Art Unit: 2171

Title: Image Data Warehousing

Mail Stop Appeal Brief-Patents
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PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith in **triplicate** is the Appeal Brief in this application with respect to the Notice of Appeal filed on **July 27, 2004**.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $330.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( )	one month	$110.00
( )	two months	$420.00
( )	three months	$950.00
( )	four months	$1480.00

( ) The extension fee has already been filled in this application.

( ) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of **$330.00**. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Number of pages:

Typed Name: **Stephanie Riley**

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Respectfully submitted,

Gennetten, et al.

By _____
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Gennetten, et al.

Group Art Unit: 2171

Serial No.: 09/964,132

Examiner: Leroux, Etienne

Filed: September 25, 2001

Docket No. 10010027-1

For: **Image Data Warehousing**

APPEAL BRIEF UNDER 37 C.F.R. §1.192

Assistant Commissioner for Patents
Mail Stop: AF (Appeal Brief)
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. §1.192 is submitted in triplicate in support of the Notice of Appeal filed herewith, responding to the Advisory Action mailed July 13, 2004.

It is not believed that extensions of time are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Hewlett-Packard Company's Deposit Account No 08-2025.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope, with sufficient postage, addressed to: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 9/27/04.

Signature: Stephanie Riley

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I. REAL PARTY-IN-INTEREST

The real party-in-interest is the assignee, Hewlett-Packard Development Company, LP.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences that will affect or be affected by a decision in this appeal.

III. STATUS OF CLAIMS

Claims 1 - 18 stand finally rejected. No claims have been allowed. The final rejection of claims 1 - 18 is appealed.

IV. STATUS OF AMENDMENTS

No amendments have been entered in this application. Therefore, originally filed claims 1- 18 remain pending in the application.

V. SUMMARY OF THE INVENTION

In an exemplary embodiment, data capturing devices are provided that communicate with a data warehouse for storing captured data. Each of the data capturing devices includes a corresponding identifier for uniquely identifying the corresponding data capturing device among all of the data capturing devices. For example, one data capturing device includes a unique identifier that, in this case, is been designated with the numeral "2." Although this data capturing device has been provided with an identifier that is numeric, a variety of other identifiers may also be provided, including alphabetic, textual, contextual, and/or pictorial identifiers. However, the identifiers are preferably human and/or machine-readable, such as

mechanically-, electrically-, chemically-, and/or optically- readable forms. In a preferred embodiment, the identifiers correspond to manufacturer's serial numbers for each of the corresponding data capturing devices and are readable by a computer. For example, these serial numbers may be stored in read-only memory inside the data capturing device.

The data warehouse provides various services before sending the captured data sets over a service platform to storage. The services preferably comprise an owner registration service, domain mapping service, data set naming service and data set synchronizing service. Owner registration service enables registering the owner of each capturing device with its corresponding identifier, such as in a registration database. Domain mapping service then maps the registered identifiers to an area, or domain, in the storage where all captured data sets from a particular data capturing device are stored. For example, each of the captured data sets from a particular data capturing device could be mapped to a particular region, such as "Region 2," in the storage. Alternatively, or in addition, the storage domains may be mapped to a particular owner, for example, when more than one device is owned by the same entity.

VI. ISSUES

The following issue needs to be decided as part of this appeal:

A. Whether claims 1, 2, 4, 6 – 9, 11 and 13 stand properly rejected under 35 U.S.C. §102(b) as being anticipated by *Miyata* (U.S. Patent 5,095,196), hereinafter "*Miyata.*"

B. Whether claims 14 – 18 stand properly rejected under 35 U.S.C. §102(e) as being anticipated by *Jones* (U.S. Patent Publication No. 2001/0032335), hereinafter "*Jones.*"

C. Whether claims 3 and 10 stand properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyata* in view of *Balakrishnan* (U.S. Patent Publication No. 2003/0110467), hereinafter "*Balakrishnan.*"

D. Whether claims 5 and 12 stand properly rejected under 35 U.S.C. §103(a) as being unpatentable over *Miyata* in view of *Jones*.

VII. GROUPING OF CLAIMS

Applicants have grouped the pending claims 1 – 18 into the following claim groups:

(1) Claims 1 - 7;

(2) Claims 8 – 13; and

(3) Claims 14 – 18.

Applicants assert that the claims of group 1 stand or fall together, the claims of group 2 stand or fall together, and the claims of group 3 stand or fall together.

VIII. THE ARGUMENT

The Applicants respectfully request that the Board overturn the rejection of claims 1 – 18 for at least the reasons discussed below.

A. *Miyata* is Legally Deficient for the Purpose of Anticipating the Features/Limitations Recited in Applicants' Claims

For a proper rejection under 35 U.S.C. §102(b), a reference must teach, either expressly or inherently, all of the features/limitations of a claim. For at least the reasons indicated below, Applicants respectfully assert that *Miyata* does not teach, either expressly or inherently, all the features/limitations of claim 1 or claim 8.

1. *Miyata* does not teach or otherwise disclose all the features/limitations recited in Applicants' claim 1

In this regard, claim 1 recites:

> 1. A data warehousing system, comprising:
> a plurality of uniquely-identifiable data capturing devices; and
> a warehouse for receiving and storing at least one set of captured data from each device according to an identity of the device that captured each data set.

The Office Action alleges that *Miyata* discloses a "warehouse" and, for this proposition, refers Applicants' attention to FIG. 2, item 9. Applicants respectfully assert that reliance upon item 9 is improper. In particular, *Miyata* discloses item 9 as a remote database that stores ID data, "such as the owner's name, the ID number, or other information which uniquely belongs to the ID card owner." (*Miyata*, col. 1, lines 59 – 61). Additionally, *Miyata* discloses that: "The registered data of each of the ID card owners stored in the data base includes at least the person's security level and a photographic image of the person." (*Miyata* at col. 2, lines 45 – 47). Thus, information is stored in the data base of *Miyata* according to the identity of the ID card owner. This is in direct contrast to Applicants' "warehouse" recited in claim 1, which is "for receiving and storing at least one set of captured data from each device according to an identity of the device that captured each data set." (Emphasis Added).

Further, there is nothing in *Miyata* to indicate that data captured from different image capturing devices, *i.e.*, devices for capturing data associated with the stored photographic images of the ID card owners, would be stored "according to an identity of the device that captured each data set," as recited in claim 1. *Miyata* does teach, however, that such data would be stored in accordance with the identity of the ID card owner.

2. Patentable weight has not been properly attributed to Applicants' functional recitations in claim 1

Applicants respectfully assert that patentable weight has not been afforded to the functional limitations recited in Applicants' claim 1. Applicants, however, may use functional language and such language must be considered for making a prior art rejection. As provided in the Manual of Examining Procedure (MPEP):

> Applicants may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. (MPEP § 2173.01).

The MPEP also provides guidance specific to functional limitations at MPEP § 2173.05(g). As provided therein:

> The functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. In re *Swinehart*, 439 F.2d 210, 169 U.S.P.Q. 226 (CCPA 1971).
>
> A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art and the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability of purpose that is served by the recited element, ingredient or step. (MPEP § 2173.05(g)) (Emphasis added).

Since Applicants have recited "a warehouse for receiving and storing at least one set of captured data from each device according to an identity of the device that captured each data set," and since this language is neither indefinite nor ambiguous, Applicants respectfully assert that this language must be considered for what is fairly conveys. In properly considering such language recited in Applicants' claim 1, Applicants respectfully assert that *Miyata* is legally deficient for the purpose of anticipating claim 1 and respectfully requests that the rejection be removed. Therefore, Applicants respectfully assert that claim 1 is in condition for allowance.

Since claims 2, 4, 6 and 7 are dependent claims that incorporate all the features/limitations of claim 1, and presently stand rejected only under *Miyata* under 35 U.S.C. 102, Applicants respectfully assert that these claims also are in condition for allowance.

With respect to claim 3, claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyata* in view of *Balakrishnan*. Applicants respectfully assert, however, that *Balakrishnan* does not teach or reasonably suggest at least the features/limitations that are mentioned above as lacking in *Miyata*. Therefore, Applicants respectfully assert that the Office Action has failed to present a prima facie case of obviousness with respect to claim 3, and request that claim 3 be placed in condition for allowance.

With respect to claim 5, claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyata* in view of *Jones*. Applicants respectfully assert, however, that *Jones* does not teach or reasonably suggest at least the features/limitations that are mentioned above as lacking in *Miyata*. Therefore, Applicants respectfully assert that the Office Action has failed to present a prima facie case of obviousness with respect to claim 5, and request that claim 5 be placed in condition for allowance.

3. *Miyata* does not teach or otherwise disclose all the features/limitations recited in Applicants' claim 8

Claim 8 recites:

> 8. A method of warehousing data, comprising the steps of:
> receiving at least one set of ***captured data*** from each of a plurality of uniquely-identifiable data capturing devices; and
> ***storing the received data sets according to an identity of the device that captured each data set.***
> (Emphasis Added).

Applicants respectfully assert that *Miyata* is legally deficient for the purpose of anticipating claim 8, because *Miyata* does not teach or otherwise disclose at least the features/limitations emphasized above in claim 8. Respectfully referring the Board's attention

once again to *Miyata*, *Miyata* discloses storing data in accordance with the identity of ID card owners. This is in contrast to "storing the received data sets according to an identity of the device that captured each data set," as recited in claim 8. Therefore, Applicants respectfully assert that the rejection of claim 8 is improper and respectfully request that claim 8 be placed in condition for allowance.

Since claims 9 and 11 are dependent claims that incorporate all the features/limitations of claim 8, and are not otherwise rejected in the pending Office Action, Applicants respectfully assert that these claims also are improperly rejected under 35 U.S.C. § 102 under *Miyata*. Therefore, Applicants respectfully assert that these claims are in condition for allowance.

With respect to claim 10, claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyata* in view of *Balakrishnan*. Applicants respectfully assert, however, that *Balakrishnan* does not teach or reasonably suggest at least the features/limitations that are mentioned above as lacking in *Miyata*. Therefore, Applicants respectfully assert that the Office Action has failed to present a prima facie case of obviousness with respect to claim 10, and request that claim 10 be placed in condition for allowance.

With respect to claim 12, claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyata* in view of *Jones*. Applicants respectfully assert, however, that *Jones* does not teach or reasonably suggest at least the features/limitations that are mentioned above as lacking in *Miyata*. Therefore, Applicants respectfully assert that the Office Action has failed to present a prima facie case of obviousness with respect to claim 12, and request that claim 12 be placed in condition for allowance.

B. *Jones* is legally deficient for the purpose of rendering obvious the features/limitations recited in Applicants' claims

For a proper rejection under 35 U.S.C. §103, a reference or combination of references must teach or reasonably suggest, either expressly or inherently, all of the features/limitations of a claim. For at least the reasons indicated below, Applicants respectfully assert that *Jones* does not teach or reasonably suggest, either expressly or inherently, all the features/limitations of claim 14.

1. *Jones* does not teach or reasonably suggest all the features/limitations recited in Applicants' claim 14

With respect to claim 14, that claim recites:

> 14. A computer readable medium for warehousing data, comprising:
> logic that receives at least one set of captured data from each of a plurality of uniquely identifiable data capturing devices;
> ***logic that stores the received data sets according to an identity of the device that captured each data set***; and
> logic for providing direct access to each of the stored data sets via the Internet.
> (Emphasis Added).

In this regard, the Office Action indicates that FIG. 7, item 24 (shown in detail in FIG. 8) of *Jones* allegedly anticipates the "logic that stores the received data sets according to an identity of the device that captured each data set," of claim 14. Applicants respectfully disagree with this characterization. Specifically, that portion of *Jones* deals with a registry that is used to store various sets of records, such as user information 86, device information 87 and group information 88.

Upon review of the portions of *Jones* related to the registry of FIG. 8, at least two patentable distinctions are apparent. First, the information stored in the registry of *Jones* is not "captured data" as recited in claim 14. Second, the information stored in the *Jones* registry does not involve "logic that stores the received data sets according to an identity of the device that

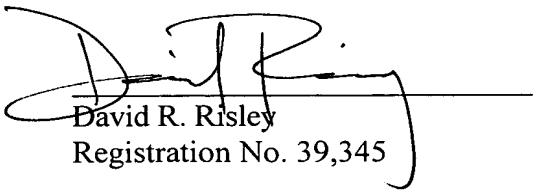
captured each data set," as recited in claim 14. Although *Jones* does describe storing device information 87 that can include a class of device, it does not appear that the class, much less "an identity of the device," is used for storing "the received data sets according to an identity of the device that captured each data set." Therefore, Applicants respectfully assert that *Jones* is legally deficient for the purpose of anticipating claim 14.

Since claims 15 – 18 are dependent claims that incorporate all the features/limitations of claim 14, and are not otherwise rejected in the Office Action, Applicants respectfully assert that these claims also are in condition for allowance.

CONCLUSION

Applicants respectfully request that the Board of Appeals overturn the Examiner's rejection of all pending claims 1 - 18 and allow claims 1 – 18 for the reasons indicated.

Respectfully submitted,



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APPENDIX TO THE APPEAL BRIEF
UNDER 37 C.F.R. §1.192

The Appendix is incorporated into the foregoing Appeal Brief under 37 C.F.R. §1.192.

THE CLAIMS

1. (Original) A data warehousing system, comprising:

a plurality of uniquely-identifiable data capturing devices; and

a warehouse for receiving and storing at least one set of captured data from each device according to an identity of the device that captured each data set.

2 (Original) The data warehousing system recited in claim 1 wherein said warehouse includes a naming service for uniquely-naming each data set from a single capture device.

3. (Original) The data warehousing system recited in claim 1 wherein said warehouse includes a mapping service for mapping each data set to a domain of the warehouse corresponding to the device that captured the data set.

4 (Original) The data warehousing system recited in claim 1 wherein said warehouse includes a client service for providing access to each of the stored data sets.

5. (Original) The data warehousing system recited in claim 1 wherein said warehouse includes means for registering each of the data capturing devices to an owner.

6. (Original) The data warehousing system recited in claim 1 wherein said warehouse means includes means for synchronizing data sets in the data capturing devices with data sets in the warehouse.

7. (Original) The data warehousing system recited in claim 1 wherein said data capturing devices are selected from the group consisting of digital cameras and scanners.

8. (Original) A method of warehousing data, comprising the steps of:

receiving at least one set of captured data from each of a plurality of uniquely-identifiable data capturing devices; and

storing the received data sets according to an identity of the device that captured each data set.

9. (Original) The method recited in claim 8, further comprising uniquely-naming each data set from a single capturing device.

10. (Original) The method recited in claim 8, further comprising mapping each data set to a domain corresponding to the device that captured the data set.

11. (Original) The method recited in claim 8, further synchronizing the received data sets with stored data sets.

12. (Original) The method recited in claim 8, further comprising registering each of the data capturing devices to an owner.

13. (Original) The method recited in claim 8, wherein said data capturing devices are digital cameras.

14. (Original) A computer readable medium for warehousing data, comprising:

logic that receives at least one set of captured data from each of a plurality of uniquely identifiable data capturing devices;

logic that stores the received data sets according to an identity of the device that captured each data set; and

logic for providing direct access to each of the stored data sets via the Internet.

15. (Original) The computer readable medium recited in claim 14, further comprising logic that uniquely-names each data set from a single capturing device.

16. (Original) The computer readable medium recited in claim 14, further comprising logic that registers each of the data capturing devices to an owner.

17. (Original) The computer readable medium recited in claim 14, further comprising logic that synchronizes the received data sets with stored data sets.

18. (Original) The computer readable medium recited in claim 14, wherein the data capturing devices are selected from the group consisting of scanners and cameras.